

January 14, 2019

Mr. Brett Berkley  
GreenVest, LLC  
2200 Somerville Road, Suite 300  
Annapolis, MD 21401

Re: Dott Farm at 12720 Kanes Road-Stream Restoration  
Forest Buffer Variance  
Tracking #03-18-2873

Dear Mr. Berkley:

This Department received a request for a variance from the Law for the Protection of Water Quality, Streams, Wetlands and Floodplains on December 11, 2018. The request proposes to temporarily impact 9,341 linear feet of stream channel to restore numerous unnamed Use III tributaries to Long Green Creek predominantly on the Dott Property, a large working farm. No filling of non-tidal wetlands is proposed. Little or no functional buffer exists, and this restoration would include establishing and planting 15.7 acres of Forest Buffer Easement (FBE) adjacent to the restored streams that are presently degraded and flow through livestock pastures and crop fields. This 15.7-acre FBE would equate to 25 feet on each side of the restored stream channels, with the buffer being 35 feet on each side of the streams on the White Property, a small portion of which is also within the scope of the restoration.

This Department reviewed your request and has considered that the stream restoration is being done to provide TMDL credits for the Maryland State Highway Administration (SHA). We have determined that a practical difficulty exists given that the stream restoration is not possible without stream and Forest Buffer impacts. Moreover, we recognize that you must negotiate permanent easement limits with a private landowner, and that requiring the full FBE that extends 100 feet or further from the stream, as required by Section 33-3-111 of the Baltimore County Code, would impact areas where the landowner wishes to continue agricultural activities or residential use.

We have also determined that overall impacts to water quality will be minimized in the long term, as the proposed impacts are temporary and serve to provide a stable stream system with functional riparian buffer protected in a permanent easement. The stream restoration would significantly improve water quality and habitat value of the stream system. However, the application states that the required FBE would total over 38 acres; but the proposed FBE would total only 15.7 acres. Consequently, additional mitigative

measures to further minimize the potential for impacts to water quality and aquatic resources as a result of this proposal will be necessary to meet this criterion.

Based on the determinations above, we will grant this request in accordance with Section 33-3-106 of the Baltimore County Code, with the following conditions to further minimize the potential for impacts to water quality and aquatic resources:

1. A minimum 25-ft. wide FBE must be established on each side of all restored stream channels onsite except where existing buildings or existing driveways preclude that width. This FBE shall be recorded in Baltimore County Land Records along with its Declaration of Protective Covenants via either record plat or right of way plat prior to reduction of any EPS-held security.
2. The resultant FBE shall be planted with native deciduous species of trees in accordance with an EPS-approved stream restoration plan. The plan included with the variance request package indicates that no tree stock larger than 3 to 5 foot high will be planted. At least 50% of the buffer planting must include container-grown tree stock at least 5-6 feet high.
3. Surveyed limits of the FBE shall be permanently posted at 100-foot intervals or at any of its corners with "Forest Buffer - Do Not Disturb" signs prior to reduction of any EPS-held environmental securities.
4. The construction drawings (i.e. grading/erosion and sediment control and stream restoration plans) and a final Forest Buffer Protection Plan (FBPP) detailing the buffer planting shall be submitted to EPS staff for review and approval and must reflect the conditions of this variance. The FBPP must include an itemized cost estimate for EPS review and approval. Additionally, these plans must meet all Maryland Department of the Environment (MDE) and U.S. Army Corps of Engineers (ACOE) requirements. EPS cannot approve the grading and ESC plans for this project until the final FBPP is approved.
5. Prior to grading permit approval, an Environment Agreement shall be signed, and a Forest Buffer Protection security based on 110% of the aforementioned EPS-approved cost estimate shall be posted in accordance with the enclosed Forest Buffer Protection security policy.
6. The following note must appear on all plans submitted for this project:

"A variance was granted by the Baltimore County Department of Environmental Protection and Sustainability from the Law for the Protection of Water Quality, Streams, Wetlands and Floodplains on January 14, 2019. The Forest Buffer Easement shown hereon is reflective of this variance.

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Conditions were placed on this variance to reduce water quality impacts including posting of protective signage along the Forest Buffer Easement as well as riparian buffer planting onsite.”

7. Documentation of MDE and ACOE authorization of the restoration must be provided to EPS prior to issuance of any Baltimore County permit.
8. The proposed impacts to the stream systems are for their restoration; therefore, no mitigation will be required beyond restoration of temporarily disturbed stream system area including afforestation and posting of the reduced Forest Buffer Easement as specified above.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the parties responsible for meeting the conditions of this variance sign the statement on the next page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please contact Mr. Glenn Shaffer at (410) 887-3980.

Sincerely yours,

David V. Lykens  
Acting Director

DVL:ges

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I/we agree to the above conditions to bring my/our property into compliance with Law  
for the Protection of Water Quality, Streams, Wetlands and Floodplains.

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Property Owner's Signature

Date

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Property Owner's Printed Name

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Contract Purchaser's Signature

Date

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Contract Purchaser's Printed Name